IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO. 1838 OF 2006

1. Shekhar Gopinath Bhalekar & Anr.] .. Petitioners

Versus

Life Insurance Corpn. of India] .. Respondents

Mr. V.P. Vaidya with Mr. A.M. Nathani for the petitioners.

Mr. V.Y. Sanglikar for the respondents.

CORAM: R.M. LODHA, &
SMT. NISHITA MHATRE, JJ.

DATED: 10TH JANUARY, 2007

P.C. :

. Gopinath Bhalekar (since deceased) was an employee of Life Insurance Corporation of India (for short "LIC"). He died in harness in the year 1994. Gopinath Bhalekar had first married Laxmibai Bhalekar and from the said wedlock, two daughters Madhavi and Deepali were born.

2. Later on, Gopinath Bhalekar is said to have married the petitioner No.2 in the year 1992. The petitioner No.2, prior to her marriage with Gopinath Bhalekar, was married to one Arvind Hatkar and from the

said wedlock, the petitioner No.1 was born. Arvind Hatkar is said to have died in the month of March, 1991 and after his death, the petitioner No.2 who was earlier Mrs. Meghna Hatkar, married Gopinath Bhalekar.

3. The petitioner No.1, claiming to be the step son of Gopinath Bhalekar, made an application to LIC for his appointment on compassionate ground. The application was processed by LIC; he was found to be eligible for the post of 'Assistant' and he was called for the interview. By letter dated 6th October, 2004, the petitioner No.1 was informed that his request for appointment on compassionate ground in LIC cannot be acceded to. This position was reiterated by LIC in the subsequent communication dated 18th June, 2005. Aggrieved thereby, the present Writ Petition has been filed.

4. In opposition to the Writ Petition, LIC has filed reply Affidavit. That the petitioner is not entitled to employment on compassionate ground is justified on two grounds: (one) that the two daughters of the deceased employee from the first wife have staked claim for employment on compassionate ground and there are rival claims and (two) that the petitioners are having substantial financial means deserving no

appointment on compassionate ground. In support, it is submitted that a sum of Rs.17,93,923.81 was paid to the petitioner No.2 towards retiral benefits and that she is getting a pension of Rs.8,500/- per month.

5. The facts stated in the reply Affidavit by LIC are not disputed by the counsel for the petitioners. He, however, submitted that under clause 21 of the LIC of India Recruitment (of Class III And IV Staff) Instructions, 1993, which lays down conditions for appointment of compassionate ground to spouse and in view of the fact that the petitioner No.2, spouse of the deceased employee has given up her right of employment on compassionate ground in favour of the petitioner No.1, there was no justification in the act of LIC in not acceding to the request of the petitioner No.1 for employment on compassionate ground.

6. Insofar as Clause 21 of LIC of India Recruitment (of Class III And IV Staff) Instructions, 1993 are concerned, it is clear that it relaxes age limit and educational qualification in favour of the spouse, son or unmarried daughter of the employee. The rule does not provide for employment on compassionate ground to the spouse alone and that only after she gives up her claim, the claim of the son or the unmarried

daughter of the deceased employee can be considered. From Rule 21 it is apparent that the employment on compassionate ground is available in favour of near relatives of the deceased employee viz. spouse, son or unmarried daughter. Insofar as petitioner No.1 is concerned, he is not the son of the deceased employee. It is his case that he was born out of the wedlock of the petitioner No.2 with Arvind Hatkar. He claims to be the adopted son for which obviously there is no evidence. The deceased employee had left behind two unmarried daughters and they are the close relatives of the deceased employee. They can claim the employment on compassionate ground which they have already done. In this backdrop, there is merit in the submission of LIC that there is rival claim for compassionate employment on the one hand by the unmarried daughter of the deceased employee and on the other by the petitioner No.1 who is the son of petitioner No.2, but out of the wedlock of petitioner No.2 with Arvind Hatkar.

7. Besides that, the very concept of compassionate employment is to provide necessary help to the legal heirs of an employee who had not left sufficient means for his wife and children to survive after his death. In the present case, and to which there is no dispute, the petitioner No.2 has been given

terminal dues of the deceased employee in the sum of Rs.19,93.923.81. Not only that, the petitioner No.1 has been getting regular pension at the rate of Rs.8,500/- per month. Surely these facts do not make out a case for employment on compassionate ground to the petitioner No.1.

8. Writ Petition, accordingly, has no merit and is dismissed in limine.

Sd/-
[R.M. LODHA, J.]

Sd/-
[SMT. NISHITA MHATRE, J.]